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Chapter:	Adoption and Guardianship Services	
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## Introduction

The purpose of the Adoption Assistance Program is to allow and encourage families to provide permanent homes for children and youth with special needs and to eliminate the financial disincentive for families to adopt a child/youth in their care. The department administers an adoption assistance program for children eligible under Title IV-E of the Social Security Act. For these children, the department complies with all eligibility requirements specified in federal statute, regulation, and policy.

For children ineligible for Title IV-E, the department also administers a state-funded program. To the extent possible, the department strives to provide equitable services across both programs, to the benefit of the children and youth receiving assistance.

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## Definitions

**Applicable Child:** A child who meets the age criteria for a Title IV-E funded adoption assistance regardless of whether the child met financial eligibility criteria for Title IV-E foster care, as established in P.L 102-351, amended by the Families First Prevention Services Act, which was passed as part of the Bipartisan Budget Act of 2018.

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## Policy

The department administers an adoption assistance program for children eligible under Title IV-E of the Social Security Act. For children ineligible for Title IV-E, it also administers a state-funded program. To the extent possible, the department strives to provide equitable services across both programs, to the benefit of the children receiving assistance.

### Who May Apply for Adoption Assistance

The department will accept applications for adoption assistance from:

- Individuals petitioning to adopt a child in custody of the DCF commissioner with special needs;
- Individuals petitioning to adopt the child of a minor parent who is in the custody of the DCF commissioner;
- Individuals petitioning to adopt a child with special needs who has been living with that individual pursuant to a conditional custody order signed by judge of the Vermont Superior Court, Family Division;
- Individuals petitioning to adopt a child who was the subject of an adoption assistance agreement with the department whose adoptive parents have died, relinquished, or had their rights to the child terminated;
- Vermont residents petitioning to adopt a child who is eligible for Supplemental Security Income (SSI);
- Vermont residents petitioning to adopt a child with special needs who is not in custody of the department or a child welfare agency in another state (In order for the subsidy to be granted, the child must meet all eligibility criteria, including IV-E eligibility criteria).

Background checks are required before the family may be approved for adoption, regardless of whether they will receive adoption assistance payments:

1. Finger-printed supported criminal background checks are required for the adopting parents if they have not been completed within the last two years for the purpose of adoption. See Family Services [Policy 221](#) regarding background checks for a list of felony convictions that prohibit adoptive parents from receiving adoption assistance.
2. Child Protection Registry Checks for the adopting parents and all other adults currently living in the household:
  - a. Vermont checks will be repeated, even if done recently for another purpose.
  - b. Checks in any state in which the adopting parents and all other adults currently living in the household have lived in the past 5 years. If these

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individuals moved to Vermont within the last 5 years, and since that time checks were completed for the purposes of foster care, guardianship, or adoption, they will not be repeated.

### Eligible Children

The department may provide adoption assistance for families adopting children determined by the department to have special needs, as follows:

- The child cannot or should not return to the home of his or her parents;
- The department has determined that there is a specific factor or condition, which makes it reasonable to conclude that the child cannot be placed with adoptive parents without providing such assistance. Such conditions include the child's race or ethnic background, age, membership in a sibling group or such factors as a physical, mental or emotional disability or a family history that indicates that the child is at significant risk to develop such a disability; and,
- Except when it would be against the child's best interests, such as moving the child from a foster family to which the child has significant emotional bonds, reasonable but unsuccessful efforts have been made to place the child with appropriate adoptive parents without adoption assistance.

Children or youth who were the subject of an adoption assistance agreement whose adoptive parents die or relinquish legal rights to them are also eligible for adoption assistance in a subsequent adoption.

### Requirements for Title IV-E or State-Funded Adoption Assistance

Both Title IV-E and State-funded Adoption Assistance have child-specific criteria that must be met for child to be eligible. In each column below, the child need only meet one of the criteria listed.

<b>Title IV-E Funded (Non-Applicable Child)</b>	<b>Title IV-E Funded (Applicable Child)</b>	<b>State-Funded</b>
Child was removed from his or her home pursuant to a child-specific finding that remaining in the home was contrary to his or her welfare or by a voluntary care agreement and was financially eligible for Title IV-E foster care payments at the time of placement or would have been eligible if the	Child was removed from his or her home pursuant to a child-specific finding that remaining in the home was contrary to his or her welfare or by a voluntary care agreement;	Child was removed from his or her home pursuant to a judicial order or by a voluntary care agreement;

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application had been made is IV-E eligible at the time adoption procedures are initiated;		
Child was determined by the Social Security Administration to be medically eligible for Supplemental Security Income (SSI) before the legal finalization of the adoption;		
Child is the child of a youth who is in DCF custody (pursuant to a contrary to the welfare finding or voluntary care agreement, when the child was placed with the parent and an IV-E payment for the parent's care also covered the cost of the child's care; <u>or</u> ,	Child is the child of a youth who is in DCF custody (pursuant to a contrary to the welfare finding or voluntary care agreement, when the child was placed with the parent and an IV-E payment for the parent's care also covered the cost of the child's care; <u>or</u> ,	Child is the child of a youth who is in DCF custody when the child was placed with the parent and a payment for the parent's care also covered the cost of the child's care; <u>or</u> ,
Child was the subject of a Title IV-E funded Adoption Assistance Agreement in a prior adoption whose adoptive parent(s) died or dissolved the adoption and the child is legally adopted again.	Child was the subject of a Title IV-E funded Adoption Assistance Agreement in a prior adoption whose adoptive parent(s) died or dissolved the adoption and the child is legally adopted again.	Child was the subject of a state-funded Adoption Assistance Agreement in a prior adoption whose adoptive parent(s) died or dissolved the adoption and the child is legally adopted again.

### Types of Assistance

The division may grant adoption assistance in one or more of the following forms:

- A monthly assistance payment. The needs of the child/youth and the circumstances of the adopting parents will determine if the department will grant this payment and in what amount.
- Payment for special services not provided for by other sources to meet the child's

present or future special needs. Decisions about these payments will be made in the context of available resources and whether the department would likely have paid the claimed need had the child been in a foster family home.

- Certain non-recurring expenses directly related to the legal adoption of a child with special needs that have not been reimbursed by another source, up to \$2000.
- Vermont Medicaid, or if the child is eligible for Title IV-E adoption assistance, Medicaid in any state.

Additionally, IV-E eligible children and youth are income eligible for social services funded by Title XX, in Vermont or another state of residence. These benefits vary from state to state.

#### **Initial Agreements for Ongoing Adoption Assistance**

The department may determine a child or youth's eligibility for adoption assistance any time appropriate to case planning. Adoption assistance payments may begin when a child or youth is legally free for adoption, is living with his or her adoptive parent(s), and both the adopting parent(s) and the DCF Commissioner or FSD Deputy Commissioner have signed an agreement. The agreement must be signed by all these individuals before the legal finalization of the adoption.

Division staff or a designated contractor must explain the agreement orally to the adopting parents.


The agreement, binding on the parties, must specify the amount of payment and the nature of the assistance the department will provide. The agreement will remain in effect regardless of the state of residence.

The department will provide a copy of the signed agreement to the adoptive parents.

#### **Determining the Amount of Subsidy**

The type and amount of assistance will be determined through agreement between the adopting parents and the department and may include reimbursement of services to meet the special needs of the child. The needs of the child will be the primary consideration. However, the circumstances of the adopting parents will be considered as well.

In no case may the payment exceed the amount that would have been paid during the period if the child had been in a foster family home.

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The payment will be issued to the adoptive parent(s) on or before the 15<sup>th</sup> of each month. If the 15<sup>th</sup> of the month occurs on a state or federal holiday, payment will be delayed until the following day.

Adoption assistance payments may be suspended if a parent fails to respond to inquiries from the division attempting to establish whether the parent continues to provide support to a child or whether the parent is still legally responsible for the child. This applies in the case of over-18 adoption when the parent fails to respond to inquiries of this type, as well. Notice of intent to suspend payment will be mailed to the parent at least 10 days prior to the suspension.

**Adoption Assistance for Children in DCF Custody Whose Adoption is Finalized between the Adoptee’s 16th and 18th Birthday**

For children who will be adopted on or after their 16th birthday who have a physical or mental condition anticipated to last until the adoptee’s 21<sup>st</sup> birthday and which the department has determined warrants continuation of assistance to that age, the initial adoption assistance agreement may be written to extend benefits to age 21. Provisions governing payments over the age of 18 will conform to the section on that topic. Under no circumstances will special services continue past the age of 18.

**Modification of Adoption Assistance Agreement**

Either party may request modification of the agreement at any time. However, the agreement cannot be modified without the agreement of both parties.


The state may negotiate a higher rate with the adoptive parents due to a change in their circumstances. The upper limit is the rate that would have been paid on behalf of the child if the child was in a foster family home, in accordance with the department’s rate schedule for foster care.

When a child who is the subject of an adoption assistance agreement enters DCF custody or leaves the home for any reason, the division will contact the adopting parents, and may request a temporary cessation of adoption assistance payments or a reduction in payments, depending upon the plan for the child and the circumstances of the adoptive family.

**Review of Adoption Assistance Agreements**

The department will review agreements for ongoing assistance and payments for special services periodically. Adoptive parents must provide information necessary for the department to determine the child and family's continuing eligibility.



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### Adoption Assistance over Age 18

The department may amend an adoption assistance agreement to provide assistance over the age of 18 under the following circumstances:

- The adoptee has not yet graduated from high school. In this case, adoption assistance may be provided until the date on which (1) the adoptee graduates or (2) the adoptee leaves school without graduating.
- The department has determined that a child has a physical or mental condition that warrants the continuation of assistance. For these individuals, Adoption Assistance may be provided up to the adoptee's 21st birthday as long as his/her adoptive parents continue to provide financial support to the adoptee, regardless of whether the adoptee has completed high school.

For any payment made after the child's 18<sup>th</sup> birthday, the rate will be the current rate for level 3 foster care, or the rate being paid before age 18, whichever is lower. No special services are available after the 18<sup>th</sup> birthday.

### Termination of the Agreement

The department will terminate an adoption assistance agreement when the department determines that:

- The child has reached the age of eighteen or the age specified in the agreement;
- The adoptive parents are no longer legally responsible for the support of the child because their rights have been terminated, the child has been legally emancipated, marries or enlists in the military; or,
- The child is no longer receiving any form of financial support from the adoptive parents.

Adoptive parents must keep the department informed of circumstances that would make them ineligible to receive payments in the amount specified in the agreement.

### Appeal of Eligibility Decisions

An adoptive family may request a fair hearing if the state unilaterally denies, suspends, reduces, discontinues, or terminates an adoption assistance agreement. This includes circumstances under which the state fails to advise the adopting parents about the availability of adoption assistance for children in the state's foster care system.

If the Human Services Board, after fair hearing, or the Vermont Supreme Court rules in favor of the child, an adoption assistance agreement will be implemented in accordance with the board's ruling, even after the finalization of the adoption. The agreement will be effective as of the date of application. Title IV-E eligibility will be determined based on



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the child/youth's circumstances at the time of the legal finalization of the child/youth's adoption.